REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on April 18, 2005. Claims 1-35 are presented for examination. The Examiner has maintained the rejection of claims 1-35 under 35 U.S.C. 103(a) as being unpatentable over Simons et al. (US 6,332,198) hereinafter Simons, in view of Zadikian et al. (US 6,724,757) hereinafter Zadikian. The Examiner also rejects claims 1-35 under 35 U.S.C. 112, first paragraph.

In response, applicant herein provides arguments to overcome the 112 rejection and the rejections of the claims on merit. Applicant's arguments clearly distinguish applicant's patentable subject matter over the teachings of Simons and Zadikan.

Regarding the 112 rejection, the Examiner states that the specification fails to describe limitations in claims 1, 12 and 24 "that all application-dependent data resides locally in kernel software of individual APS modules". Applicant's specification clearly describes that portion of the limitations. In this example, instances of APS software 209 are provided one on ADM 104 and one on ADM 105.

Applicant's specification clearly teaches an APS client (APS CL) 213 is provided as a distributed component of the novel APS software of the present invention and is implemented in this example on both LCs 205 and 204. Because LC 205 is a primary line card (PLC) and LC 204 is a backup card (BLC) in this example, APS CL 213 on LC 205 is appropriately designated as a primary APS client (PAC) and APS CL 213 on LC 204 is appropriately designated as a backup APS client (BAC). **Each instance of APS CL is identical in capability to every other instance. The same is true with instances of IFMC** (P. 14, line 26 to p. 15, line 10).

Applicant argues that the art of Simon teaches that all application-dependent data resides in memory 40 and not in kernel software in individual APS modules (col. 19, lines 32-37). Applicant believes that because information and communication needed to facilitate APS is not stored locally in Simons, as in applicant's invention, the 50 millisecond time frame could not be consistently accomplished. In applicant's invention

all pertinent information is transmitted between APS modules allowing the information exchange required for APS to occur much faster. Simon suffers from network data flow interruption because true APS is not accomplished. Clearly, applicant's specification supports the amended claim language; "that all application-dependent data resides locally in kernel software of individual APS modules". Therefore, the 112 rejection should be withdrawn.

The Examiner retains the art of Zadikian to teach a 50 millisecond switchover, stating that Zadikian teaches a network element capable of performing routing functions that <u>support</u> simple provisioning and fast restoration (50ms). Applicant argues that what Zadikian actually discloses is that the scheme referred to as "1-plus-1 allows the line cards to select between the two copies of the group matrix without CPU intervention, which <u>helps ensure</u> (not consistently achieves or supports) 50-millisecond switchover. Further, applicant reasserts that since Zadikan's system teaches routing signals on optical cables, an analogous system to applicant's invention is certainly not taught.

Still further, Zadikian facilitates switchover from a main processor, and neither of the software intelligence or application dependant data is stored locally, that is in individual APS modules, as is taught in applicant's invention. Therefore, applicant strongly believes that the fact that Zadikian's scheme <u>helps ensure</u> (not consistently achieves or supports) 50-millisecond switchover **<u>in a single processor implementation, it certainly would not obviate a 50-millisecond switchover in a distributed processor environment as taught in Simons.</u>** Simply because the Examiner has produced art teaching that a 50-ms switchover exists (in questionable analogous art) does not teach or suggest <u>consistent</u> 50ms switchover in a distributed processing system, as taught in Simons. The Examiner's logic, as it applies to the obvious combination of Simons and Zadikian to accomplish applicant's invention is faulty. Simply because the ability exists, does not mean that it is obvious or even possible to implement it in the known art as presented.

The Examiner has not shown how the integration of the teachings of Simons and Zadikian could successfully accomplish applicant's invention with what is known in the art. A required reasonable expectation of success has not been demonstrated, and the

teaching therefore does not deserve patentable weight in combination with Simons. Combining a method (Zadikian) that suggests helping to ensure 50ms switchover in a single processor environment, with a method in a distributed processor environment not capable of 50ms switchover (Simons), does not and cannot produce a method that consistently achieves 50ms switchover or better, as in applicant's invention and claim language.

Applicant therefore believes that claims 1, 12 and 24 as amended and argued by applicant are now clearly and unarguably patentable over the art of Simon and Zadikian, either singly or combined. Claims 2-11, 13-23, and 25-35 are then patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims as amended and argued are clearly shown to be patentable over the prior art, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue. If any fees are due beyond fees paid with this response, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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